

Appl. No. 10/713,985  
Amdt. dated October 2, 2006  
Reply to Office action of July 5, 2006

### **REMARKS/ARGUMENTS**

Claims 1, 4, 5, 7-13, 15, 17, and 18 remain in this application. Claims 2, 3, 6, 14, 16, 19, and 20 have been canceled.

Claim 1, as amended, overcomes the 35 U.S.C. 103(a) rejection because it has been amended to include the invention having a rigid ring, wherein the handle comprises a length which enables a standing user to raise the ring above an uppermost point of a vertical table umbrella, wherein the ring is adapted to slide downward from the uppermost point of the umbrella, and wherein the ring comes to rest at a spaced distance below the uppermost point of the vertical umbrella. Support for the amendment to specify that the ring is rigid is found in the Specification at p. 6, lines 23-24, and in Figs. 1-3. Support for the amendment to specify that the handle comprises a length which enables a standing user to raise the ring above an uppermost point of a vertical table umbrella, wherein the ring is adapted to slide downward from the uppermost point of the umbrella, and wherein the ring comes to rest at a spaced distance below the uppermost point of the vertical umbrella is found in the Specification at p. 6, lines 27-31, p. 7, lines 1-4 and 28-31, p. 8, lines 1-4, and in Fig. 1. The cited and relied upon Flippin, Jr. (6,223,759) teaches a band 35 which may be formed of fabric or suitable polymeric material (column 2, lines 56-59). Inherently, a band formed of fabric would be flexible rather than rigid, implying that a "suitable polymeric material" would also be flexible. While this functions adequately for Flippin, Jr., where the user can use one hand to hold the band open while inserting the umbrella with his or her other hand, hooking a flexible ring over the uppermost point of a vertical table umbrella and sliding it down when the user cannot reach the ring to hold it open would be extremely difficult. In addition, the Federal Circuit has stated that the references must be "reasonably pertinent to the particular problem with which the inventor is involved" and that "common sense" must be used to decide "in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor." The cited and relied upon Clarke (123,380) teaches a clamp E that clasps the staff of an umbrella (page 1)

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rather than its canopy. Claspings the staff of an umbrella is not pertinent to the problem solved by the current invention of holding a vertical table umbrella in a closed position, thus preventing the umbrella from opening in the wind. Therefore, the Clarke reference should not be considered by the Examiner. Furthermore, combining the Clarke reference with Flippin, Jr. would change the principle of operation of Clarke. Clarke teaches a clamp that clasps the staff of an umbrella, not its canopy. The cited and relied upon Shingles (D381,847) teaches an umbrella holster that has a closed bottom (Figure 2) rather than a ring. As a result, the prior art, whether alone or in combination, does not disclose a rigid ring attached to one end of a handle, wherein the ring is adapted to slide downward from the uppermost point of a vertical table umbrella after having been raised above the uppermost point of the vertical table umbrella. The dependent claims 4, 5, and 7-12 add additional novel features to the independent claims recited above and thus are submitted to be a-fortiori, patentable.

Claim 13, as amended, overcomes the 35 U.S.C. 103(a) rejection because it has been amended to include the invention having a rigid ring. Support for the amendment to specify that the ring is rigid is found in the Specification at p. 6, lines 23-24, and in Figs. 1-3. The cited and relied upon Flippin, Jr. (6,223,759) teaches a band 35 which may be formed of fabric or suitable polymeric material (column 2, lines 56-59). Inherently, a band formed of fabric would be flexible rather than rigid, implying that a "suitable polymeric material" would also be flexible. While this functions adequately for Flippin, Jr., where the user can use one hand to hold the band open while inserting the umbrella with his or her other hand, hooking a flexible ring over the uppermost point of a vertical table umbrella and sliding it down when the user cannot reach the ring to hold it open would be extremely difficult. In addition, the Federal Circuit has stated that the references must be "reasonably pertinent to the particular problem with which the inventor is involved" and that "common sense" must be used to decide "in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor." The cited and relied upon Clarke (123,380) teaches a clamp E that clasps the staff of an umbrella (page 1) rather than its canopy. Claspings the

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staff of an umbrella is not pertinent to the problem solved by the current invention of holding a vertical table umbrella in a closed position, thus preventing the umbrella from opening in the wind. Therefore, the Clarke reference should not be considered by the Examiner. Furthermore, combining the Clarke reference with Flippin, Jr. would change the principle of operation of Clarke. Clarke teaches a clamp that clasps the staff of an umbrella, not its canopy. The cited and relied upon Shingles (D381,847) teaches an umbrella holster that has a closed bottom (Figure 2) rather than a ring. As a result, the prior art, whether alone or in combination, does not disclose a rigid ring attached to a handle, wherein the handle is utilized to place the ring on the umbrella and the ring removably circumscribes the body of a closed outdoor umbrella to prevent the umbrella from opening. The dependent claims 15, 17, and 18 add additional novel features to the independent claims recited above and thus are submitted to be a-fortiori, patentable.

In view of the above, it is respectfully submitted that:

Claims 1, 4, 5, 7-13, 15, 17, and 18, as amended, recite distinctions that are of patentable merit under 35 U.S.C. 103(a) for the independent claims and thus for each dependent claim as well. Specifically, a rigid ring, wherein the handle comprises a length which enables a standing user to raise the ring above an uppermost point of a vertical table umbrella, wherein the ring is adapted to slide downward from the uppermost point of the umbrella, and wherein the ring comes to rest at a spaced distance below the uppermost point of the vertical umbrella was unsuggested among the prior art references.

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Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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Date: October 2, 2006

**Certificate of Facsimile**

I hereby certify that this correspondence is being transmitted by fax to the United States Patent and Trademark Office, Fax No. 571-273-8300 on the date shown below.

Anthony Edw. J Campbell



*Monday, October 02, 2006*